

In the Matter of License No. 224602 and all other Seaman Documents  
Issued to: John A. Wands

DECISION OF THE COMMANDANT  
UNITED STATES COAST GUARD

1144

JOHN A. WANDS

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 1 April 1959, an Examiner of the United States Coast Guard at Baltimore, Maryland suspended Appellant's seaman documents for two months upon finding him guilty of negligence. The specification found proved alleges that while serving as Second Assistant Engineer on board the United States SS ROBIN TRENT under authority of the document above described, on or about 5 February 1959, Appellant failed to maintain an adequate water level in the starboard boiler while he was in charge of the 0400 to 0800 watch, thereby causing extensive damage to the boiler. The damage consisted of distortion of the boiler tubes which caused the boiler to leak. It is almost conclusive that this distortion was the result of insufficient water in the boiler at some time.

At the hearing, Appellant was not represented by counsel and he entered a plea of not guilty. The Investigating Officer introduced in evidence the testimony of the Chief Engineer and First Assistant Engineer. Appellant made a statement in his defense.

It is my opinion that the record does not contain substantial evidence to prove that the low water level in the starboard boiler occurred during Appellant's watch rather than earlier. There should have been an attempt to clear up this point by presenting the testimony of the preceding watch standers. The Examiner based his decision on the belief that water at the level of "three nuts" (five inches according to Appellant) in the water gauge glass, a direct water level indicator, was not an adequate water level to prevent the damage which occurred; but the First Assistant correctly testified that the water level is satisfactory if it is in sight in a properly functioning water gauge.

There is some indication that the gauge was defective during Appellant's watch. If so, Appellant should have realized this; but even assuming the gauge was defective, the evidence is too speculative to conclude that during Appellant's watch the water in the boiler was below the point where it should have been in sight on the water gauge. The First Assistant, who was called below by Appellant at 0600 and again at 0700, corroborated Appellant's statement that the water level seemed to be satisfactory. Also, there is no evidence as to whether the gauge was working properly at the beginning of Appellant's watch. If it was not, then it is equally possible that the damage was the result of an inadequate water level in the boiler, which was not indicated on the gauge, before Appellant came on watch.

For these reasons, the finding that the specification was proved is reversed. The charge and specification are dismissed.

ORDER

The order of the Examiner dated at Baltimore, Maryland, on 1 April 1959, is VACATED.

A. C. Richmond  
Vice Admiral, United States Coast Guard  
Commandant

Dated at Washington, D. C., this 24th day of February 1960.